

No. 17304

United States
Court of Appeals
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

HOLLY-GENERAL COMPANY, DIVISION OF
SIEGLER CORPORATION,
Respondent.

Transcript of Record

Petition for Enforcement of an Order of the
National Labor Relations Board

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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GENERAL COUNSEL'S EXHIBIT 1-C

United States of America
Before the National Labor Relations Board
Twenty-First Region
Case No. 21-CA-3900

HOLLY-GENERAL COMPANY

and

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, WESTERN REGION NO. 6

COMPLAINT AND NOTICE OF HEARING

It having been charged by United Automobile, Aircraft and Agricultural Implement Workers of America, Western Region No. 6 (herein called Union) that Holly-General Company (herein called Respondent) has been engaging in and is engaging in unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 61 Stat. 136, 73 Stat. 519, herein called the Act, the General Counsel of the National Labor Relations Board (herein called the Board), on behalf of the Board, by the undersigned Regional Director, issues this Complaint and Notice of Hearing pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8:

1. The charge was filed by the Union on February 16, 1960, and was served on Respondent on February 17, 1960, by registered mail.

2. Respondent, a Delaware corporation, is engaged at its Pasadena, California, plant in the manufacture of heating and air-conditioning equipment.

3. (a) Respondent, in the course and conduct of its business operations during the past calendar or fiscal year, sold products valued in excess of \$50,000 to customers located outside the State of California.

(b) During the same period of time, Respondent sold products valued in excess of \$50,000 to customers which, in turn, made sales outside the State of California.

(c) During the same period of time, Respondent purchased products valued in excess of \$50,000 from suppliers located outside the State of California.

(d) During the same period of time, Respondent purchased products valued in excess of \$50,000 from suppliers who, in turn, purchased the products from directly outside the State of California.

4. Respondent is and at all times material herein has been engaged in commerce and in business affecting commerce within the meaning of Section 2, subsections (6) and (7) of the Act.

5. Union is a labor organization within the meaning of Section 2, subsection (5) of the Act.

6. Union was certified by the Board on February 26, 1959, in Holly-General Company, a Division of the Siegler Corporation, 21-RC-5383 and 21-RC-5387, as the exclusive representative of the employees of Respondent in an appropriate unit as follows:

Included: All production and maintenance employees at the Pasadena, California, plant, including movemen,

the stockroom warehousemen, the storeroom clerk, stockroom helpers, group leaders, tow motor operators, truckdrivers, inspectors and janitors.

Excluded: Field service, engineering department, time study, production control, office clerical, and professional employees, management trainees, the plant manager secretary, guards, and supervisors as defined in the Act.

7. From on or about February 12, 1960, to the date hereof, Respondent, although requested so to do, has failed and refused, and continues to fail and refuse, to bargain collectively in good faith with the Union as the exclusive representative of all the employees included in the unit-described in paragraph 6 above, with respect to wages, hours, and other terms and conditions of employment.

8. From on or about February 12, 1960, to the date hereof, Respondent has failed and refused, and continues to fail and refuse, to incorporate in writing and sign the collective bargaining agreement which had been agreed to by the Union and Respondent.

9. By the acts described in paragraphs 7 and 8 above, Respondent did engage in, and is engaging in, unfair labor practices within the meaning of Section 8(a), subsection (5) of the Act.

10. By the acts described in paragraphs 7, 8 and 9 above, and by each of said acts, Respondent did interfere with, restrain and coerce, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act, and

did thereby engage in, and is thereby engaging in, unfair labor practices within the meaning of Section 8(a), subsection (1) of the Act.

11. The activities of Respondent, described in paragraphs 7, 8, 9 and 10 above, occurring in connection with the operations of Respondent described in paragraphs 2, 3 and 4 above, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and lead to, and tend to lead to, labor disputes burdening and obstructing commerce and the free flow of commerce within the meaning of Section 2, subsections (6) and (7) of the Act.

12. The activities of Respondent, as set forth in paragraphs 7, 8, 9, 10 and 11 above, constitute unfair labor practices affecting commerce within the meaning of Section 8 (a), subsections (1) and (5), and Section 2, subsections (6) and (7) of the Act.

Please Take Notice that on the 14th day of April 1960, at 10:00 a.m., PST, in Hearing Room No. 1, on the Mezzanine Floor, 849 South Broadway, Los Angeles, California, a hearing will be conducted before a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four

(4) copies of an answer to said Complaint within ten (10) days from the service thereof and that unless it does so all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board.

Wherefore, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the undersigned Regional Director, this 25th day of March 1960, issues this Complaint and Notice of Hearing against Holly-General Company, the Respondent herein.

/s/ RALPH E. KENNEDY,
Regional Director
National Labor Relations Board,
Twenty-First Region,
849 South Broadway,
Los Angeles 14, California.
(Address)

Admitted in Evidence May 2, 1960.

GENERAL COUNSEL'S EXHIBIT 1-H

[Title of Board and Cause.]

ANSWER

Comes Now, Holly-General Company, by and through its attorneys, Sweeney, Irwin & Foye, and Peter W. Irwin, and for answer to the complaint heretofore filed in this cause says:

1) Respondent admits the allegations of paragraph 1 of said complaint.

2) Respondent admits the allegations of paragraph 2 of said complaint.

3) Respondent admits the allegations of paragraph 3 of said complaint.

4) Respondent admits the allegations of paragraph 4 of said complaint.

5) Respondent admits the allegations of paragraph 5 of said complaint.

6) Respondent admits the allegations contained in paragraph 6 of said complaint.

7) Respondent denies the allegations of paragraph 7 of said complaint.

8) Respondent denies the allegations contained in paragraph 8 of said complaint.

9) Respondent denies the allegations contained in paragraph 9 of said complaint.

10) Respondent denies the allegations contained in paragraph 10 of said complaint.

11) Respondent denies the allegations contained in paragraph 11 of said complaint.

12) Respondent denies the allegations contained in paragraph 12 of said complaint.

Wherefore, Respondent respectfully requests the complaint herein be dismissed.

SWEENEY, IRWIN & FOYE,
/s/ By PETER W. IRWIN,
Attorney for Holly-General Company.

I certify that I have this day served copy of the foregoing Answer upon United Automobile, Aircraft and Agricultural Implement Workers of America, Western Region No. 6, and Arnold, Smith & Schwartz, 117 West 9th Street, Los Angeles 15, California, Counsel, by placing a copy of the same in the United States mail, postage prepaid, addressed to same at 117 West 9th Street, Los Angeles 15, California.

Dated: April 4, 1960.

/s/ PETER W. IRWIN.

Admitted in Evidence May 2, 1960.

[Title of Board and Cause.]

INTERMEDIATE REPORT AND
RECOMMENDED ORDER

Statement of the Case

Upon a charge duly filed on February 16, 1960, by United Automobile, Aircraft and Agricultural Implement Workers of America, Western Region No. 6, herein called the Union, the General Counsel of the National Labor Relations Board, herein respectively called the General Counsel² and the Board, through the Regional Director for the Twenty-first Region (Los Angeles, California), issued a complaint, dated March 25, 1960, against Holly-General, Division of Siegler Corporation, herein called Respondent, alleging that Respondent had engaged in, and was engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the National Labor Relations Act, 61 Stat. 136, as amended from time to time, herein called the Act.

Copies of the charge, the complaint, and notice of hearing thereon were duly served upon Respondent and copies of the complaint and notice of the hearing thereon were duly served upon the Union.

With respect to the unfair labor practices, the complaint alleged in substance that the Respondent since February 12, 1960, has refused to bargain collectively with the Union, although the Union had been since

²This term specifically includes counsel for the General Counsel appearing at the hearing.

February 26, 1959, the statutory representative of Respondent's employees in a certain appropriate unit.

On April 5, 1960, Respondent duly filed an answer denying the commission of the unfair labor practices alleged.

Pursuant to due notice, a hearing was held on May 2, 1960, at Los Angeles, California, before the undersigned, the duly designated Trial Examiner. The General Counsel, Respondent, and the Union were represented by Counsel. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence pertinent to the issues, to argue orally at the conclusion of the taking of the evidence, and to file briefs on or before May 23, 1960. Each party has filed a brief and each has been carefully considered.

Upon the record as a whole and from his observation of the witnesses, the undersigned makes the following:

Findings of Fact

I. Respondent's business operations

Respondent, a Delaware corporation, is engaged at its Pasadena, California, plant in the manufacture of heating and air-conditioning equipment. During the calendar or fiscal year immediately preceding the issuance of the complaint herein Respondent sold finished products valued in excess of \$50,000 to customers located outside the State of California. During the same period, Respondent sold finished products valued in excess of \$50,000 to local customers who, in turn, made sales outside of the State of California. During

the same period, Respondent's direct out-of-state purchases of merchandise exceeded \$50,000 and its indirect out-of-state purchases of merchandise exceeded \$50,000.

Upon the above-admitted facts the undersigned finds that Respondent, during all times material was, and now is, engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that it will effectuate the policies of the Act for the Board to assert jurisdiction in this proceeding.

II. The labor organization involved

The Union is a labor organization admitted to membership employees of Respondent.

III. The unfair labor practices

The refusal to bargain collectively with the Union

1. The appropriate unit and the Union's majority status therein

The complaint alleged, the answer admits, and the undersigned finds, that on February 26, 1959, the Union was certified by the Board in Cases No. 21-RC-5383 and 21-RC-5387, as the exclusive representative of all Respondent's production and maintenance employees at its Pasadena, California, plant, including movemen, the stockroom warehousemen, the storeroom helpers, group leaders, tow motor operators, truck-drivers, inspectors, and janitors but excluding field service, engineering department, time study, production control, office clerical, and professional employees, management trainees, the plant manager secretary, guards, and supervisors as defined by the Act. The undersigned

further finds that since February 26, 1959, the Union has been the statutory representative of the employees in the above described appropriate unit for the purposes of collective bargaining in respect to grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment.

2. The refusal to bargain

(a) The pertinent facts

On January 6, 1960, after the parties had about 20 bargaining conferences, representatives of Respondent met with the Union's representatives and discussed the proposed contract which Respondent had submitted to the Union about mid-December, 1959. The terms of the proposed agreement were acceptable to the Union and its representatives so indicated at said meeting. However, there were 5 items not included in Respondent's proposal which were discussed at the aforesaid meeting. These items included the Union's request for a union security clause, for a check-off of dues clause, and for a wage increase. Respondent refused each of these demands. In lieu of an immediate wage increase, Respondent proposed a 6-month wage reopener clause which the Union accepted. The Union also agreed to waive a no-strike, no lock-out clause which Respondent had proposed. The Union also agreed to withdraw its demands for a union-security clause, for a check-off of dues clause, and to accept a 1-year contract.

With respect to the verbiage to be used in connection with the wage reopener clause, Lon Chaney, Respondent's vice-president manufacturing, testified, and the undersigned finds, as follows:

Q. At the very close of the meeting (of January 6), you or Mr. Irwin,³ management said, "Now, with respect to details in connection with any wage reopener that you say you are willing to, there may be some provisions about who notifies whom, when, about what, but those are things that can easily be worked out"; and to that Mr. West⁴ nodded his agreement, is that correct?

A. These are things that would have to be worked out, yes.

Q. Those were things that would have to be worked out and that would be worked out, am I correct?

A. Correct.

Q. And the statement that was made by management were these things that can be worked out and Mr. West nodded his agreement, am I correct?

A. Yes.

The January 6 meeting concluded with the understanding that since Respondent's proposed contract was acceptable to the Union, the details of the reopener clause would be worked out, and that Respondent's proposed contract would be submitted to the Union's members for acceptance or rejection.

On or about January 18 or 19, Jean Amman, Respondent's personnel manager, showed Chaney a three page document headed:

To Whom It May Concern

We the undersigned request a vote against union representation in the shop of Holly General plant, 875 So. Arroya Parkway, Pasadena, California.

³Respondent's Counsel.

⁴The Union's assistant director.

This document, which is referred to in record as a decertification petition and which is discussed more fully below, bore the purported signatures of approximately 110 employees of Respondent.

On January 21, the Union called a meeting of all Respondents' employees—as distinguished from Union members exclusively—in order to, according to one of the Union handbills, “hear the reading of a proposed contract and [to] get all the facts [and to cast] a secret ballot for or against the proposed U.A.W.—Holly contract.”

Another handbill announcing the aforesaid meeting reads, in part, as follows:

For the last few weeks UAW Representatives along with your elected Committee have been meeting with Holly General Management in an effort to reach agreement on your contract. Holly Management made what it calls it's last offer regarding your contract and it is most important that you attend a special meeting to consider this offer.

The proposed contract will be presented to you for your approval or disapproval. Hear the final positions taken by your employer and the UAW Committee at the January 6 meeting.

Get all of the facts by being present and casting your secret ballot vote for or against the proposed contract. Ernest West, Region 6, UAW, Assistant Dir., who took part in final negotiations will be present to give his views concerning the proposed contract agreement.

A democratic Union must be guided by the desires of its membership. Do not disenfranchise yourself by being absent from this important meeting!

The Union submitted to those attending the meeting referred to immediately above, Respondent's proposed contract. The persons attending the meeting voted to reject Respondent's proposal.

In the latter part of January or in the fore part of February members of management met and discussed among themselves, to quote from Chaney's testimony, "what our alternates might be in view of [the Union's] acceptance of the contract, in view of the [so-called decertification] petition we had received."

On February 4, the Union held a membership meeting for the purpose of voting to accept or reject Respondent's proposed contract. The handbill announcing this meeting reads, in part, as follows:

A Meeting Shall be Held Tomorrow for the Purpose of Voting to Accept or Reject the Union Contract With the Holly General Company.

Those Eligible to Vote on the Proposed U.A.W. Contract are Employees Who Signed Membership Cards. No Other Holly General Employees Than Those Who Signed the U.A.W. Membership Card Will be Eligible to Cast a Vote on the Accepting or Rejecting of This Contract.

At this meeting the proposed contract was accepted by the membership.

On or about February 8, the Federal Mediator who had been assigned to the then pending controversy between Respondent and the Union, informed Chaney that the Union's membership had voted to accept Respondent's proposed contract.

On February 8, Employee Vince Scharfenberg went to Amman's office and asked for the so-called decertification petition because he wanted to file it with the Labor Board. Upon receiving said petition from Amman, Scharfenberg informed Charles Burton, his immediate supervisor, that he desired to leave the plant to attend to some business.⁵ Burton told Scharfenberg, that he may leave the plant provided he "clocked out." Scharfenberg after clocking out, went to the Board's Twenty-first Regional offices and submitted the decertification petition to a Board attorney or a Field Examiner for filing and processing. After some discussion with the aforesaid Board agent, Scharfenberg and he conferred with a Board attorney, who informed Scharfenberg that the decertification petition could not be processed because it bore no date and for the further reason that the Union's certification year would not expire until after February 27.⁶

Upon returning to the plant, after his visit to the Board's offices, Scharfenberg informed Chaney and Amman that the Board would not accept the decertification petition because it was undated and untimely.⁷

⁵Scharfenberg testified, and the undersigned finds, that he told Burton "the nature of the business."

⁶The Union was certified on February 26, 1959.

Section 9(c)(3) of the Act provides, in pertinent part:

No election shall be directed in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held.

⁷Later that day, February 8, Scharfenberg drafted

Under date of February 12, Chaney wrote West as follows:

Confirming our representative's statement during the meeting of February 12, 1960, at which meeting we were requested to reduce the contract to its final form and execute it, and so that there will be no misunderstanding, we wish to re-state the Company's position.

As we told you, within the last several days, we have received a petition signed by more than sixty percent of our employees in the bargaining unit requesting that an election be held to determine the question of employee representation. We are further informed that one or more employees went to the Board to initiate such an election, and that they were told that they were premature.

In view of the fact that the certification year expires in less than two weeks, and in view of the expressed desires of our employees against your continued representation, which expression was contained in the petition above referred to and the signatures on which we have verified, it appears to us that to reduce our agreement to final form and execute it would operate to deprive our employees of their rights to an election to determine the question of continued representation.

another decertification petition and had it typed by Amman's secretary. This second petition was circulated in the plant by Employee Joe Pauro. The record indicates that the second petition was filed with the Board but the record is silent as to what action, if any, the Board has taken with respect thereto.

We therefore have offered, and renew our offer, to execute the final agreement, such agreement to take effect upon the happening of any of the following events:

1. A reasonable time has elapsed from the earliest date at which a petition for election could be filed and no such petition is filed, or
2. A petition for election is filed within such time and the petition is dismissed by the Board, or
3. A petition is filed and an election held with results favorable to your organization.

This proposal was made and is renewed in the sincere belief that in view of all of the circumstances that it affords the greatest protection to yourselves, to our employees, and to the Company.

(b) Concluding findings

The Board has held, with the approval of the Supreme Court,⁸ that a certification based upon a Board-conducted election must be honored for a reasonable period—ordinarily 1 year—in the absence of unusual circumstances.

The record in this case is convincingly clear, and the undersigned finds, that after the Union members had voted to accept Respondent's proposed contract, Respondent would have executed it, after the verbiage had been agreed upon with respect to the reopener clause, had not Respondent been confronted with the employees' decertification petition. In other words, Respondent refused to execute its own contract proposal because it bowed to its employees' "change of mind" regarding

⁸Ray Brooks v. N. L. R. B., 348 U.S. 96.

their union affiliations. The choice selected by Respondent was without the pale of the law, since, as the cases hold,⁹ the "change of mind" by employees within the certification year is not the type of unusual circumstances warranting suspension of the 1-year rule. Respondent, therefore, must be directed to reverse its position to conform to the requirements of law and be ordered to embody in a written agreement all the contractual terms and conditions to which it agreed at the January 6, 1960 meeting with the Union, including a 6-month reopener clause with no-strike no-lockout provisions.

Upon the entire record in the case, the undersigned finds that Respondent's refusal, since February 12, 1960, to bargain collectively with the Union, is violative of Section 8(a)(5) and (1) of the Act.

IV. The effect of the unfair labor practices upon commerce

The activities of Respondent set forth in Section III above, occurring in connection with the business operations of Respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and such of them as have been found to constitute unfair labor practices, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

⁹See, for example, *Ray Brooks v. N. L. R. B.*, *supra*; *Peninsula Asphalt & Construction Co.*, 127 NLRB #20; *Bluefield Produce & Provision Company*, 117 NLRB 1660.

V. The remedy

Having found that Respondent has engaged in unfair labor practices, violative of Section 8(a)(1) and (5) of the Act, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that if Respondent had not been confronted with the aforementioned decertification petition it would have executed the written proposals it submitted to the Union in December, 1959, which proposals the Union agreed to accept on January 6, 1960, after the verbiage of a reopener clause had been agreed to, the undersigned recommends that upon the Union's request, Respondent embody in a written agreement all the contractual terms and conditions it and the Union agreed to on January 6, 1960, including a 6-month reopener clause with no-strike no-lockout provisions.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the undersigned makes the following:

Conclusions of Law

1. The Union is, and during all times material was, a labor organization within the meaning of Section 2(5) of the Act.

2. Respondent is engaged in, and during all times material was engaged in, commerce within the meaning of Section 2(6) and (7) of the Act.

3. All Respondent's production and maintenance employees at its Pasadena, California, plant, including movemen, the storeroom clerk, stockroom helpers, group

leaders, tow motor operators, truckdrivers, inspectors, and janitors but excluding field service, engineering department, time study, production control, office clerical, and professional employees, management trainees, the plant manager secretary, guards, and supervisors as defined by the Act, constitute, and during all times material constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9-(b) of the Act.

4. The Union was on February 26, 1959, and at all times thereafter has been, the statutory representative of all the employees in the above described appropriate unit, for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

5. By refusing on February 12, 1960, and at all times thereafter, to bargain collectively with the above-named labor organization, as the statutory representative of the employees in the above-described appropriate unit, Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(5) of the Act.

6. By the aforesaid refusal to bargain, Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act and has thereby engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices within the meaning of Section 2(6) and (7) of the Act.

Recommendations

Upon the basis of the foregoing findings of fact and conclusions of law, and upon the record as a whole, the undersigned recommends that Holly-General Company, Division of Siegler Corporation, Pasadena, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with the Union as the statutory representative of the employees in the above-described appropriate unit with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act.

(a) Upon the request of the Union embody in a written agreement all the contractual terms and conditions agreed to between it and the Union on January 6, 1960, including a 6-month reopener clause with no-strike no-lockout provisions;

(b) Post at its plant in Pasadena, California, copies of the notice attached hereto marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Twenty-first Region, shall, after being duly signed by Respondent's representative, be posted for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to em-

employees customarily are posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the Twenty-first Region, in writing, within twenty (20) days from the receipt of this Intermediate Report and Recommended Order what steps Respondent has taken to comply therewith.

It is further recommended that unless within twenty (20) days from the date of the receipt of this Intermediate Report and Recommended Order the Respondent notifies said Regional Director that it will comply with the foregoing recommendations, the Board issue an order requiring Respondent to take the aforesaid action.

Dated this 1 day of August 1960.

/s/ HOWARD MYERS,
Trial Examiners.

Appendix A

Notice to All Employees, Pursuant to the Recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We Will, upon the request of United Automobile, Aircraft and Agricultural Implement Workers of America, Western Region No. 6, embody in a written agreement all the contractual terms and conditions agreed to by us and the above-named labor organization on January 6, 1960, including a 6-month reopener

clause with no-strike no-lockout provision. The bargaining unit is:

All Respondent's production and maintenance employees at its Pasadena, California plant, including movemen, the storeroom clerk, stockroom helpers, group leaders, tow motor operators, truckdrivers, inspectors, and janitors but excluding field service, engineering department, time study, production control, office clerical, and professional employees, management trainees, the plant manager secretary, guards, and supervisors as defined by the Act.

All our employees are free to become or remain members of the above-named Union or any other labor organization. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any labor organization.

Holly-General Company,
Division of Siegler Corporation,
(Employer)

DatedBy
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

[Title of Board and Cause.]

DECISION AND ORDER

On August 1, 1960, Trial Examiner Howard Myers issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a brief in support thereof.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in this case, and hereby adopts the findings, conclusions and recommendations of the Trial Examiner.

Order

Upon the entire record in this case and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Holly-General Company, Division of Siegler Corporation, its officers, agents, successors and assigns, shall:

1. Cease and desist from:

- (a) Refusing to bargain collectively concerning rates

of pay, wages, hours of employment and other terms and conditions of employment with United Aircraft and Agricultural Implement Workers of America, Western Region No. 6, as the statutory representative of the employees in the following appropriate unit:

All Respondent's production and maintenance employees at its Pasadena, California, plant, including movemen, the stockroom warehousemen, the storeroom helpers, group leaders, tow motor operators, truck-drivers, inspectors, and janitors, but excluding field service, engineering department, time study, production control, office clerical, and professional employees, management trainees, the plant manager secretary, guards and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request of the Union embody in a written agreement all the contractual terms and conditions agreed to between it and the Union on January 6, 1960, including a 6-month reopener clause with no-strike no-lockout provisions;

(b) Post at its plant in Pasadena, California, copies of the notice attached to the Intermediate Report marked "Appendix A."¹ Copies of said notice, to be

¹This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" the words "A Decision and Order." In the event that

furnished by the Regional Director for the Twenty-first Region, shall after being duly signed by Respondent's representative, be posted for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees customarily are posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the Twenty-first Region in writing, within ten (10) days from the date of this Order, what steps it has taken to comply therewith.

Dated, Washington, D. C. Jan. 3, 1961.

[Seal]

BOYD LEEDOM, Chairman,
JOSEPH ALTON JENKINS, Member,
ARTHUR A. KIMBALL, Member,
NATIONAL LABOR RELATIONS BOARD,

this order is enforced by a decree of a United States Court of Appeals, the notice shall be further amended by substituting for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

United States Court of Appeals
for the Ninth Circuit

No. 17304

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

HOLLY-GENERAL COMPANY, DIVISION OF
SIEGLER CORPORATION,

Respondent.

CERTIFICATE OF THE NATIONAL
LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.116, Rules and Regulations of the National Labor Relations Board—Series 8, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a proceeding had before said Board, and known upon its records as Case No. 21-CA-3900. Such transcript includes the pleadings and testimony and evidence upon which the Order of the Board in said proceeding was entered, and includes also the findings and Order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Stenographic transcript of testimony taken before Trial Examiner Howard Myers on May 2, 1960, together with all exhibits introduced in evidence.

2. Trial Examiner's Intermediate Report And Recommended Order issued August 1, 1960, (annexed to item, 4, hereof).

3. Respondent's Exceptions To The Intermediate Report and Recommended Order, received August 24, 1960.

4. Copy of Decision And Order of the National Labor Relations Board dated January 3, 1961.

5. Copy of Order Correcting Decision And Order dated February 16, 1961.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 21st day of April, 1961.

/s/ OGDEN W. FIELDS,
Executive Secretary,
National Labor Relations Board.

[Seal]

Before the National Labor Relations Board
Twenty-First Region

No. 21-CA-3900

HOLLY GENERAL COMPANY,

Respondent,

and

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA, WESTERN REGION No. 6

Charging Party,

Room No. 2, 849 South Broadway, Los Angeles,
California, Monday, May 2, 1960.

Pursuant to notice, the above-entitled matter came
on for hearing at 10:00 o'clock a.m.

Before: Howard Myers, Trial Examiner.

Appearances: E. Don Wilson and Laurence D.
Steinsapir, 849 South Broadway, Los Angeles, Cali-
fornia, appearing on behalf of the General Counsel of
the National Labor Relations Board.

Arnold, Smith & Schwartz, By: Jerome Smith, 117
West 9th Street, Los Angeles 15, California, appear-
ing on behalf of the Charging Party.

Sweeney, Irwin & Foye, By: Peter W. Irwin, 639
South Spring Street, Los Angeles 14, California, appear-
ing on behalf of the Respondent. [1]*

PROCEEDINGS

* * * * *

Mr. Wilson: I ask that this be marked as General
Counsel's Exhibit 2 for identification.

*Page numbers appearing at top of page of Original Trans-
cript of Record.

(Thereupon the document above referred to was marked General Counsel's Exhibit No. 2 for identification.)

Mr. Wilson: Mr. Irwin, I show you General Counsel's Exhibit 2 for identification and propose the stipulation that it is the original of a letter sent through the mail on or about February 12, 1960, by Mr. L. R. Chaney, vice-president of Respondent, directed to Mr. E. West of the U. A. W., the charging party herein, and that it was received by Mr. West in the regular course of mail. [7]

Mr. Irwin: I have no objection.

Mr. Wilson: Do you so stipulate?

Mr. Irwin: So stipulate, yes.

Mr. Wilson: I offer—

Trial Examiner: Do you so stipulate, Mr. Smith?

Mr. Smith: Yes, I do. I wonder, does it carry with it the understanding then that Mr. Chaney is in fact the vice-president. I would like to add that to the stipulation.

Mr. Irwin: Yes.

Mr. Smith: So stipulated.

Mr. Wilson: And I accept the stipulation as amended.

Trial Examiner: Very well.

Mr. Wilson: I offer General Counsel's Exhibit 2 for identification in evidence.

Trial Examiner: Any objections?

Mr. Irwin: No objection.

Mr. Smith: No objection.

Trial Examiner: There being no objection, the paper is received into evidence, and I will ask the re-

porter to kindly mark it as General Counsel's Exhibit No. 2.

(The document heretofore marked General Counsel's Exhibit No. 2 for identification was received in evidence.) [8]

* * * * *

Mr. Wilson: I ask that this be marked as General Counsel's Exhibit 4 for identification.

(Thereupon the document above referred to was marked General Counsel's Exhibit 4 for identification.) [11]

Mr. Wilson: I propose the stipulation that General Counsel's Exhibit 4 for identification is the certification of the Union as the bargaining representative in Case No. 21-RC-5383 and 21-RC-5387, said certification being dated February 26, 1959.

Do you so stipulate, Mr. Irwin?

Mr. Irwin: So stipulated.

Mr. Wilson: And Mr. Smith?

Mr. Smith: So stipulated.

Mr. Wilson: I so stipulate.

I offer General Counsel's Exhibit 4 for identification into evidence.

Trial Examiner: Any objection?

Mr. Irwin: No objection.

Mr. Smith: No objection.

Trial Examiner: There being no objection, the paper is received into evidence, and I will ask the reporter to kindly mark it as General Counsel's Exhibit No. 4.

(The document heretofore marked General Counsel's Exhibit No. 4 for identification was received in evidence.) [12]

* * * * *

Mr. Wilson: At the request of Respondent, I am proposing the following stipulation:

That on February 29, 1960, in Case No. 21-RD-483, that a decertification petition was filed by an individual named V. A. Wolks, W-o-l-k-s, and the petition was supported by 30 percent or more of the employees in the unit, the unit being substantially the same as that involved in there proceedings. [13]

* * * * *

Mr. Irwin: Well, in that connection, Mr. Myers, in connection with Mr. Wilson's statement, certainly the dates bear out the fact that the petition was filed after the employer's alleged refusal to bargain.

Now, mere refusal to bargain is not violation of the Act. It has to be unlawful refusal. Obviously the condition concerning representation is a matter of defense, and we think therefore, highly material on that basis. [15]

* * * * *

Mr. Wilson: As I understand it, the stipulation is that on February 29, 1960, a petition for decertification of the union involved in this proceeding as the bargaining representative of the employees of the Respondent was filed, and was given the case No. 21-RD-483 and attached to that petition was a list of names.

Mr. Smith: So stipulated.

Mr. Irwin: So stipulated.

Trial Examiner: And you?

Mr. Wilson: I so stipulate. [18]

* * * * *

Mr. Irwin: Well, the question, if there was a refusal to bargain in fact. There is an additional ques-

tion of whether it is an unlawful refusal to bargain. It is the respondent's suggestion that this petition will be connected we believe by the evidence. It is respondent's contention that the question of representation is material, representation by the union, continued representation of the people in the shop is material and enters into the position taken by [19] the employer.

Trial Examiner: You say that you will connect it up?

Mr. Irwin: Yes.

* * * * *

LON CHANEY,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Trial Examiner: What is your name, sir?

The Witness: Lon Chaney.

Trial Examiner: Will you kindly spell your last name?

The Witness: C-h-a-n-e-y.

Trial Examiner: Lawrence?

The Witness: Lon, L-o-n.

Trial Examiner: Where do you live, sir?

The Witness: I live at 12354 Hesby, North Hollywood.

Trial Examiner: You may be seated.

Mr. Irwin, you may proceed with the examination of Mr. Chaney who has been duly sworn.

Mr. Irwin: Thank you, sir. [20]

(Testimony of Lon Chaney.)

Direct Examination

Q. (By Mr. Irwin): By whom are you employed, Mr. Chaney?

A. By Holly-General Company, a division of Siegler Corporation.

Q. In what capacity?

A. Vice-president of manufacturing.

* * * * *

Q. Mr. Chaney, do you know of your own knowledge whether or not there have been certain negotiations with the U. A. W. at Holly-General for the past year, approximately?

A. Yes. I sat in, and on negotiations with the exception of one meeting.

Q. Do you recall whether or not you had any meetings with the union in the month of January, 1960?

A. Let's see. I believe we had a meeting January 6th, as I recall the date.

Q. Who was present at this meeting, if you recall?

A. Mr. West, Mr. Garriga, yourself, Mrs. Amman and myself, and I don't recall any of the committee members there at the time.

Mr. Wilson: May I have the spelling of Mrs. Amman?

The Witness: A-m-m-a-n. [21]

Q. (By Mr. Wilson): Do you recall at the present time, Mr. Chaney, what transpired at that meeting?

A. At this meeting Mr. Garriga and Mr. West were new as far as being the union representatives. We had been dealing with a Mr. Slater.

(Testimony of Lon Chaney.)

At the time Mr. Garriga and Mr. West came into the meeting, we were somewhat surprised inasmuch as they evidently had not been filled in on what had transpired prior to the meeting with Slater.

Mr. Smith: I move that the last be stricken as a conclusion.

Trial Examiner: Strike it out.

Will the reporter please read the question for the witness?

(Record read.)

Mr. Irwin: I will rephrase the question.

Trial Examiner: All right.

Q. (By Mr. Irwin): Had Mr. West and Mr. Garriga been in any previous negotiations?

A. No.

Q. Had there been any union representative at any previous negotiation?

A. Slater had been there. Now, I should maybe answer that again. I believe Mr. Garriga was there at one of the first meeting that we had with Mr. Slater. I am not positive [22] about that, however.

Q. About how many meetings did you have altogether?

A. It is really difficult to say inasmuch as they took place over a period of a year. I would guess somewhere around 20, possibly. Maybe it was more than that.

Trial Examiner: That is your best recollection?

The Witness: Yes.

Trial Examiner: At the present time.

(Testimony of Lon Chaney.)

Q. (By Mr. Irwin): Now, in the month of December, Mr. Chaney, do you know whether or not—
Trial Examiner: 1958.

Q. (By Mr. Irwin): This would be 1959, the month of December. Do you know whether or not the company had given to the union representatives a written draft of all agreements to that date?

A. Yes. Some time in mid December this was submitted to Mr. Slater as well as the committee members, a formal proposal for a contract.

Q. Now, on this meeting on January 6, Mr. Chaney, did either Mr. West or Mr. Garriaga have a copy of this typewritten draft with them?

A. No. At least not to my knowledge, inasmuch as I did have to give them a copy of the formal proposal.

Q. Now, do you recall what subjects were discussed at that meeting on January 6, Mr. Chaney?

A. Well, there were several subjects discussed: Union [23] security was one. Check-off, wages, a rather heated debate. A wage reopener clause. I believe there was one other, but I don't recall it right offhand.

Q. Do you recall whether or not the duration of the agreement was discussed?

A. Yes. That was the other. Duration of the agreement was the other.

Q. With respect to union security, check-off of dues, wages and duration, do you recall whether or not agreement was reached at that meeting on those items?

Mr. Smith: I will object to that. It calls for a conclusion. The witness can just testify as to what was said.

(Testimony of Lon Chaney.)

Trial Examiner: Sustained.

The Witness: Should I answer that?

Mr. Irwin: I beg your pardon?

Trial Examiner: I will sustain it.

Q. (By Mr. Irwin): What if anything was said by the union representatives with respect to the company proposals on union security, check-off, wages and duration of the agreement?

A. Well, on the items you mentioned there, it was my understanding, after quite lengthy discussion, that agreement had been reached on those four items.

Q. How about with respect to the wage reopener?

A. The wage reopener was something that was discussed at [24] that time. However, it was not settled upon. There were several things that were still left open on the wage reopener clause.

Q. What were those, if you recall?

A. Well, as an example, who would be the person to notify and when.

Mr. Smith: I am going to object to the question and ask that the partial answer be stricken on the ground that the answer is not going to be meaningful. He is giving conclusions and not recounting what was said.

Trial Examiner: Do you want him to repeat everything he now remembers of what transpired at that meeting?

Mr. Smith: The thing that bothers me about this, Mr. Trial Examiner, he was asked the question what was it that was not resolved. We don't know whether he is giving what was said or some natural reservations

(Testimony of Lon Chaney.)

of his that weren't discussed at all, and I think this is a highly important question. A question of whether it was resolved is going to hinge on what was said, and it is very important as to what was said about wage reopeners.

Mr. Irwin: I will go through it step by step.

Trial Examiner: Very well, sir. I will sustain the objection.

Q. (By Mr. Irwin): What did the company state with respect to this wage reopener clause? [25]

A. Well, the company said that it felt—

Mr. Smith: This means, Mr. Chaney is the spokesman.

Q. (By Mr. Irwin): Do you recall who stated this?

A. Well, I think in part myself and in part Mr. Irwin made the statements.

Q. What was said, if you recall?

A. Well, to begin with, the time, that is the time element, as far as one wage reopener was discussed, and I think it was agreed upon that it would be in a period of six months.

There were other things that were brought up, as I mentioned, that were discussed, but were not agreed upon.

Mr. Wilson: I move to strike that latter part, Mr. Trial Examiner.

Trial Examiner: Mr. Chaney, all you are supposed to do is tell us what you remember of what was said—

The Witness: All right, yes, sir.

Trial Examiner: —by each party to the conference.

(Testimony of Lon Chaney.)

The Witness: Mr. Irwin brought up the fact that this meeting, at this meeting that there were several things that would have to be agreed upon in a wage reopener clause such as who and when or who notifies—I beg your pardon—and how long to bargain, and if an agreement is not reached, in view of the no strike no lock out clause, what is the action by either party; and I believe that pretty well covers it. [26]

Trial Examiner: What did the union say with respect to the reopener?

The Witness: Well, the union was in favor of a reopener clause.

Trial Examiner: What did they say? Were certain propositions proposed by Mr. Irwin?

The Witness: Yes, I think at this point we were in the process of breaking off the meeting or breaking the meeting up, and I think Garriga and or at least Mr. West nodded his head that we could reach agreement on these points.

Q. (By Mr. Irwin): Did the meeting break up about that time? A. Yes.

Q. Mr. Chaney, at any time in January of 1960, did you see a petition signed by certain of your employees?

A. Yes. There was a petition handed to the Personnel Department somewhere around the 18th or 19th of January which I saw.

Trial Examiner: What year?

The Witness: 1960.

Q. (By Mr. Irwin): Do you know approximately how many signatures there were on that petition?

(Testimony of Lon Chaney.)

Mr. Smith: I object.

Mr. Wilson: I object to that question upon the grounds of irrelevancy and immateriality.

Mr. Smith: I will add the objection that it is not the [27] best evidence. The document itself should be presented.

Trial Examiner: What about that, Mr. Irwin?

Mr. Irwin: I am not asking about the contents of it.

Trial Examiner: You are asking him to describe it.

Mr. Wilson: How many names are on it?

Mr. Irwin: I am just asking how many names are on it.

Mr. Wilson: I renew my objection.

Trial Examiner: Isn't the document itself the best evidence.

I can understand your position, Mr. Irwin, but perhaps if you counsel have a conference, maybe you can come up with some stipulation.

I assume that you do not want to show this list of names of persons on there to the union's counsel, is that right?

Mr. Irwin: That is correct. I prefer not to.

Trial Examiner: And so that is why I suggest that you perhaps can arrive at some stipulation with Mr. Smith and Mr. Wilson and his associates.

Mr. Wilson: Of course, I would like to point out, Mr. Trial Examiner, that even with respect to the list itself, while an objection was placed on the grounds that this witness' testimony as to the number of names on the list wouldn't be the best evidence, and that the document speaks for itself, there would be the further

(Testimony of Lon Chaney.)

objection, and I think [28] obviously well grounded, that it is irrelevant and immaterial whether they got a list from some employee or petition from some employees on January 18th, 1960 or not.

Trial Examiner: That is all right. We will take that up at a later date.

In the meantime, do you think you can get together? I suggest a little conference between counsel. You may step down temporarily, Mr. Chaney.

We will be in recess.

(Short recess.)

Trial Examiner: Gentlemen, are you ready to proceed?

Mr. Irwin: Yes, Mr. Myers.

Trial Examiner: Proceed.

Mr. Irwin: I will ask the reporter to mark this as Respondent's Exhibit 1.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 1 for identification.)

Mr. Irwin: I would like to remark in the record that the exhibit has been exhibited to opposing counsel.

Q. (By Mr. Irwin): Mr. Chaney, I am going to show you a document consisting of two pages with some typewriting on it, and what appears to be signatures with a blue cover and a blue back on it.

I am going to ask you if you have seen that before, sir? [29]

A. Yes.

Q. When was the first time you saw it?

A. It was January 18th or 19th, 1960.

(Testimony of Lon Chaney.)

Q. Where did you get it when you saw it?

A. The Personnel Manager showed this to me.

Mr. Smith: I am sorry, I didn't hear the answer.

The Witness: I said the Personnel Manager showed it to me.

Q. (By Mr. Irwin): I show you now General Counsel's Exhibit 2, Mr. Chaney, which is a letter dated February 12 over your signature, and in the second paragraph of the first page I will ask you whether or not Respondent's 1 is the petition referred to in that letter? A. Yes.

Mr. Irwin: Mr. Wilson and Mr. Smith, will you stipulate that Respondent's 1 is not the same petition as in Board's file No.—

Mr. Wilson: 21-RD-483.

Mr. Irwin: Yes.

Mr. Wilson: I so stipulate.

Mr. Smith: So stipulated.

Trial Examiner: And you, Mr. Irwin.

Mr. Irwin: I will so stipulate.

Trial Examiner: Thank you, gentlemen.

Q. (By Mr. Irwin): Now, what if anything, did you do [30] after you saw this petition, Mr. Chaney?

A. Well, I gave it back to Mrs. Amman.

Trial Examiner: Who is she?

The Witness: Pardon me?

Trial Examiner: Who is she?

The Witness: She is the Personnel Manager, and requested that she have the names verified against the personnel file or W-2 form.

Q. (By Mr. Irwin): Mr. Chaney, were you present

(Testimony of Lon Chaney.)

at a meeting, negotiating meeting with the union on February 12, 1960?

A. No, I was not.

Q. Were you present at any meeting held by members of management with respect to the February 12 meeting, that is a meeting that took place before February 12th?

A. As far as that, prior to that date, yes. We had a meeting. It was either the latter part of January or very first part of February at which time we discussed what our alternates might be in view of union acceptance of the contract, in view of the petition that we had received.

Mr. Wilson: Could we find out who was present?

Q. (By Mr. Irwin): Who was present at this meeting?

A. Mr. Miller, myself, Mrs. Amman and yourself, Mr. Irwin.

Q. Mr. Chaney, if you know, was Respondent's 1, that is this petition, is that the sole reason for the position [31] taken by the company at the February 12th meeting?

A. Yes, definitely.

Mr. Irwin: I have no further questions.

Trial Examiner: Has the General Counsel any questions to ask this witness?

Mr. Wilson: Just a moment, please, sir.

Mr. Smith: Was Respondent's Exhibit 1 offered into evidence?

Mr. Irwin: I beg your pardon. I move that Respondent's Exhibit 1 be received into evidence.

(Testimony of Lon Chaney.)

Trial Examiner: Any objection?

Mr. Wilson: I object to it on the grounds it is immaterial and irrelevant.

Mr. Smith: We join in that objection.

Trial Examiner: I will overrule the objection and receive the document into evidence, and I will ask the reporter to kindly mark it as Respondent's Exhibit 1.

(The document heretofore marked Respondent's Exhibit 1 for identification was received in evidence.)

Cross-Examination [32]

* * * * *

Q. On January 6, 1960, did not either Mr. West or Mr. [39] Garriga or both of them tell you that they were going to present your offer of the contract to their membership for approval? A. Yes.

Q. When did you first learn that the membership had accepted, voted to accept your proposal?

A. The union had two meetings in that case. One I—

Q. Well, without respect to the two meetings right now? A. Yes. I would say.

Q. When did you first learn?

A. That they accepted the contract?

Q. Yes.

A. Or accepted the proposal?

Q. Right.

A. I believe it was from Mr. Ferguson. I think it was February 8, I believe.

Trial Examiner: Of this year?

The Witness: Of this year, yes.

(Testimony of Lon Chaney.)

Q. (By Mr. Wilson): And that was Mr. Ferguson, the Federal Mediator? A. Yes. [40]

* * * * *

Further Cross-Examination [42]

* * * * *

Q. (By Mr. Smith): Now, we have that taking place. In any event, the union did agree to the six-month wage reopener with waiver of no strike no lock-out clause, is that correct? Some time in the meeting the union representative said yes.

A. Yes, and then at that point was where Mr. Irwin brought up these other problems, related problems, as far as working [50] out the balance of the wage reopener clause.

Q. Now, this was at the close of the meeting or very near thereto, you stated, is that correct?

A. Yes.

Q. Now, tell me again what Mr. Irwin said about these related points.

A. Well, Mr. Irwin brought up the fact that there were several items which would have to be worked out, one of which being, who would open, who would notify.

The second one being how long we would bargain, and the third one being if no agreement was reached, what would be the action of either party.

Q. Now, were these treated by you just as language problems, the way that this would be drawn up in the contract?

A. Well, I think Mr. Irwin also stated at that point that he felt these were something that could be worked

(Testimony of Lon Chaney.)

out, and this is when I referred to Mr. West nodding, at that time, consent.

Q. So at that point it was your understanding that an agreement had been reached?

A. It was not my understanding that an agreement had been reached. It was my understanding that an agreement could be reached.

Q. On the language and on these details concerning this last issue, is that correct? [51]

A. Yes. On the language and the details, how it is going to work and so on.

Trial Examiner: The mechanics?

The Witness: The mechanics.

Q. (By Mr. Smith): Now, you knew, did you not, that the union was taking the company's proposed contract to its membership for the necessary membership vote?

A. Yes.

Q. Was any later meeting set up to work out these remaining details?

A. No, because at this point was when Mr. West said that he certainly would not, could not recommend the contract to the membership.

Q. Well, his recommendation or not, it was going to be up to the membership, is that correct?

A. Yes.

Q. That was the stipulation, it would be presented to the membership?

A. Oh, yes.

Q. Now, am I correct in my conclusion that the only reason that a contract, the contract with this union

(Testimony of Lon Chaney.)

has not been signed was because of the conditions and stipulations referred to in your letter of February 12, 1960?

Trial Examiner: Do you want to see the letter?

The Witness: Yes. It is right here. [52]

Trial Examiner: Do you have it before you?

The Witness: Yes.

Yes.

Mr. Smith: That is all.

Trial Examiner: You say "yes" to the question propounded, is that right?

The Witness: Yes.

* * * * *

Cross-Examination (Continued) [53]

* * * * *

Some time around the middle of February you heard that some employees or somebody from your company went to the National Labor Relations Board to file a petition for decertification, is that right?

A. Somewhere in the middle of January?

Q. In the middle of February.

A. Oh, the middle of February, yes.

Q. And you learned that they came down here to the National Labor Relations Board and were told, among other things, that the petition was not in proper form? A. Yes.

Q. And that it was untimely or something of the sort? A. Right.

Q. And they didn't file any petition?

A. That is correct.

* * * * *

(Testimony of Lon Chaney.)

Q. Who was the fellow that brought the petition down?

A. Vince Scharfenberg.

Trial Examiner: Who?

The Witness: Vince Scharfenberg. [55]

* * * * *

Trial Examiner: When he came back, to whom did he speak?

The Witness: He talked to Mrs. Amman and myself.

Trial Examiner: Did he have any documents at that time; did he show you any printed forms?

The Witness: No. I don't think he had any printed forms at all.

Q. (By Mr. Wilson): What did he show you?

A. I don't think he showed me anything. I think he merely told me what had been told him.

Q. What did he tell you?

A. What I previously answered, that the NLRB or whoever [57] he talked to down here had told him that the petition was not only untimely, but it was an incorrect form.

Trial Examiner: What petition was that?

The Witness: The petition that was presented here.

Trial Examiner: Respondent's Exhibit No. 1?

The Witness: Yes.

Q. (By Mr. Wilson): Well, after Respondent's petition or Exhibit No. 1 was given to your Personnel office, it was then given to you, and then in the latter part of January you and other representatives of man-

(Testimony of Lon Chaney.)

agement got together and discussed this petition. What did you do then with the petition?

A. Well, as I mentioned previously, I gave it back to the Personnel Manager to have the signatures verified.

Q. Yes, and then what happened to it?

A. I think it was put into the file for safe keeping.

Q. Well, it may be—

Trial Examiner: How did this man Scharfenberg get this paper?

The Witness: He asked Gene Anmma for it. [58]

* * * * *

Mr. Wilson: May I have this marked as General Counsel's Exhibit next in order.

(Thereupon the document above referred to was marked General Counsel's Exhibit 5 for identification.)

Q. (By Mr. Wilson): I show you General Counsel's Exhibit 5 for identification and ask you if that is a copy of the written proposal made by your company to the union at least on January 6, 1960?

Trial Examiner: What do you mean by at least? Do you [66] mean on or prior?

Q. (By Mr. Wilson): Possibly it was done on or prior to January 6, 1960.

A. This looks like it, yes.

Mr. Wilson: All right. I offer General Counsel's Exhibit 5 for identification into evidence.

The Witness: Unless you compare it directly, but it does appear to be.

(Testimony of Lon Chaney.)

Trial Examiner: Any objections, subject to checking it?

Mr. Irwin: No. I have no objection.

Mr. Smith: No objection.

Trial Examiner: There being no objection, the paper is received into evidence, and I will ask the reporter to kindly mark it as General Counsel's Exhibit No. 5.

(The document heretofore marked General Counsel's Exhibit No. 5 for identification was received into evidence.)

Q. (By Mr. Wilson): Now, I have no intention nor desire of reviewing your testimony in detail given on direct, but I think perhaps you will agree with this summary with respect to the way things stood on January 6, at the January 6 meeting.

The parties were in agreement with respect to the contents of General Counsel's Exhibit 5, is that right, sir? [67]

* * * * *

The Witness: To answer your question, then there was nothing that we were in disagreement on, that is currently in this tentative agreement here.

Q. (By Mr. Wilson): Of General Counsel's Exhibit 5?

A. Right.

Q. That is in General Counsel's Exhibit 5.

Now, I believe you testified that there were five [69] subjects of discussion apart from General Counsel's Exhibit 5 at the January 6 meeting. One was union security. Two was check-off. Three was wages con-

(Testimony of Lon Chaney.)

cerning which I think you said there was a fairly heated discussion. Four, wage reopener. Five, duration of agreement. A. Correct.

Q. Have I correctly stated your testimony?

A. Yes.

Q. All right. The union on January 6 through its representatives proposed that the contract should contain the union security clause, is that correct?

A. Correct.

Q. The company opposed?

A. Correct.

Q. The union gave in and said, "Okay. No union security."

So you had an agreement that there would be no union security, am I right? A. Right.

Q. The union proposed that there be a check-off provision in the contract at the January 6 meeting?

A. Correct.

Q. The employer opposed it, correct?

A. Correct.

Q. The union conceded, so there was an agreement that there would be no check-off provision? [70]

A. Correct.

Q. The union made a wage proposal, something to do with the rate in pay. I am not concerned at the moment whether it be two cents or 45 cents or what the amount was, whether it was five percent or ten percent, but they proposed a raise, am I correct?

A. Correct.

Q. You or Mr. Irwin, the employer representatives stated that in view of the steel strike and in view of

(Testimony of Lon Chaney.)

some other conditions, it was not feasible for the employer to give a wage increase at that time?

A. Correct.

Q. Mr. Irwin or you or someone of the company representatives proposed that instead of a wage reopener as of January 6, that there be a wage reopener in a period of six months with a waiver of the no strike, no lock-out provision, am I correct?

A. I don't know that management was the one that necessarily proposed this.

Q. The union wanted the raise. You didn't want to give them a raise. Didn't you make a counter-proposal that, "We can't give it to you now, but six months from now we will sit down and discuss it again?"

A. Yes. We said we would sit down in six months.

Q. And discuss it again? [71]

A. Right.

Q. And the union said okay? A. Right.

Q. So you were in agreement on that?

A. No, because then is when Mr. Irwin brought up the points that have to be settled along with it.

Q. We will come to that in a moment. You were in agreement that there would be a wage reopener, and that after six months, after the contract was executed, you would sit down with a waiver of no strike no lock-out provisions and negotiate a wage raise, am I correct? A. Correct.

Q. All right. Management proposed, either you or Mr. Irwin, that any contract that was entered into at

(Testimony of Lon Chaney.)

this time would be for a duration of one year, am I correct? A. Correct.

Q. The union agreed to it, am I correct?

A. Yes.

Q. At the very close of the meeting, you or Mr. Irwin, management said, "Now, with respect to details in connection with any wage reopener that you say you are willing to, there may be some provisions about who notifies whom, when, about what, but those are things that can easily be worked out;" and to that Mr. West nodded his agreement, is that correct? [72]

A. These are things that would have to be worked out, yes.

Q. Those were things that would have to be worked out and that would be worked out, am I correct?

A. Correct.

Q. And the statement that was made by management were these things that can be worked out and Mr. West nodded his agreement, am I correct?

A. Yes. [73]

* * * * *

ERNEST WEST,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Trial Examiner: Will you kindly state your name, sir?

The Witness: Ernest West.

Trial Examiner: Will you kindly spell your last name for the record.

The Witness: W-e-s-t.

(Testimony of Ernest West.)

Trial Examiner: Where do you live, sir?

The Witness: I live at 1937 Greer Street, Pomona.

Trial Examiner: You may be seated, please.

Mr. Irwin, you may proceed with the examination of Mr. West who has been duly sworn.

Mr. Irwin: Thank you, sir. [74]

Direct Examination

Q. (By Mr. Irwin): Mr. West, what is your business or occupation?

A. I am assistant director of the United Auto Workers, Region 6.

Q. Headquarters where, sir?

A. 8501 South San Pedro Street, Los Angeles.

Q. Mr. West, you have been in the hearing room since this morning, and you have heard the testimony of the parties, is that correct?

A. That is correct.

Q. You heard testimony with respect to a meeting held on January 6?

A. Yes, I have.

Q. Would you tell us whether or not there was any discussion of the details of a wage reopener at that meeting of January 6?

A. Your proposal was that there would be six months wage reopener with waiver of a no strike no lock-out clause. [75]

* * * * *

Q. (By Mr. Irwin): Did you in fact present this to the membership?

A. Certainly did, yes, sir.

(Testimony of Ernest West.)

Q. Do you recall when that was?

A. I believe it was on February 6.

Trial Examiner: Do you believe or is that your best [77] recollection?

The Witness: Yes, February 6.

Q. (By Mr. Irwin): Mr. West, wasn't it presented to the membership on January 21?

Mr. Wilson: I object to leading the witness.

Trial Examiner: Overruled.

The Witness: It was not presented to the membership. It was presented to the employees of the company. We got an immediate protest. [78]

* * * * *

Q. (By Mr. Irwin): You did have a meeting on January 21, is that correct?

A. Thereabouts, yes.

Q. On or about January 21st, and certain people were present that were employees of the respondent, is that correct?

A. I assume they were employees of the respondent.

Mr. Irwin: I will ask the reporter to mark this as Respondent's Exhibit Number 2.

(Thereupon the document above referred to was marked Respondent's No. 2 for identification.)

Q. (By Mr. Irwin): I will show you this, Mr. West, and ask you have ever seen this before?

A. Did not see this one.

Q. You have never seen this before?

A. No, sir. [79]

Q. Does this refresh your recollection at all with respect to whether—

(Testimony of Ernest West.)

A. I know there was a meeting called, but it doesn't come within my scope of calling the meetings. I did not write that nor did I see that before.

Q. Were you present at that meeting?

A. Yes, I was.

Mr. Irwin: I will ask the reporter to mark this as Respondent's Exhibit 3 for identification.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 3 for identification.)

Q. (By Mr. Irwin): Mr. West, I will show you this. Have you ever seen that notice before, Mr. West?

A. No. I did not see this one before either.

Q. Now, getting to this meeting on about January 21, was a total proposed contract submitted to the people there for acceptance or rejection? A. Yes.

Q. Do you know of your own knowledge whether it was accepted or rejected?

A. It was accepted.

Q. It was. I beg your pardon.

A. It was accepted. You are speaking of the January 21st meeting?

Q. Right.

A. Or thereabouts? [80]

Q. Right.

A. Let us see. Well, I'm not clear on the date. I—

Q. Well, approximately January 21st.

A. Yes. It was, it was finally accepted.

Q. I'm talking about at that meeting.

A. No. I don't think it was accepted at that meeting.

(Testimony of Ernest West.)

Q. Did you have a vote?

A. We had a vote. We also had a protest.

Q. Now, you had another meeting, did you not?

A. We did.

Q. On February 6th?

A. Correct.

Q. Let me ask you, do you know approximately how many people participated in the vote on January 21st?

A. I don't recall.

Q. Well, to the best of your recollection.

A. Oh, 35, I imagine.

Trial Examiner: 35?

The Witness: 35 or 40. I don't recall, exactly.

Mr. Irwin: I will ask the reporter to mark this as Respondent's Exhibit 4 for identification.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 4 for identification.)

Q. (By Mr. Irwin): Mr. West, I will ask you if you have ever seen Respondent's 4 for identification?

[81] A. No. I did not see this one either.

Q. Let me ask you, Mr. West, if you know, who prepares notices of meetings; who in your organization, if anybody, is responsible for preparing notices?

Mr. Wilson: I object on the ground that it is without any need, without any purpose, and it is irrelevant and immaterial to this proceeding. This is simply an effort to go into the internal affairs of a labor organization.

Trial Examiner: Overruled.

(Testimony of Ernest West.)

Q. (By Mr. Irwin): Do you know who is in charge of preparing these?

A. I assume one of the girls in the office, the mimeograph operator or somebody.

Q. Well—

Mr. Smith: May I interrupt and say that we will offer no objection to foundation on these three documents.

Mr. Irwin: Fine.

Mr. Smith: If that is the problem here. We think they are immaterial, and will object, but for foundation, we will stipulate that they were in fact distributed on or about the date that appears in the lower left hand corner of each.

Mr. Irwin: Fine.

Mr. Smith: Or what appears to be on the face.

Trial Examiner: Do you accept that statement?

Mr. Irwin: Yes, thank you, Mr. Smith. That is all. [82]

Trial Examiner: Do you have any objection to that stipulation, Mr. Wilson?

Mr. Wilson: Well, I will take it as a statement of facts from the charging party, and I will accept it as such; but I will not—

Trial Examiner: No. He doesn't offer that yet.

Mr. Wilson: Aside from that, I don't know it is a fact, but on Mr. Smith's word that it is, I will accept his word.

Trial Examiner: You may proceed, Mr. Irwin.

Mr. Irwin: Thank you.

(Testimony of Ernest West.)

I will move that Respondent's Exhibits 2, 3 and 4 be received into evidence at this time.

Mr. Smith: We will object on grounds of materiality.

Trial Examiner: What is the purpose of these?

Mr. Irwin: Well, I think that—well, I will withdraw the offer at this time. I will renew it at a later time.

Trial Examiner: Very well.

Q. (By Mr. Irwin): Now, I believe you testified that there was a meeting on February 6, is that correct?

A. Correct.

Q. Now, between January 6 and February 6, Mr. West, did you have any meetings with company representatives?

A. No, I did not.

Q. Did you notify the company representatives of the results of the January 21st meeting? [83]

A. I did not, nor any other meeting. I notified them.

Q. Did you instruct anyone to notify the company as of the results of those meetings?

A. I did not. I didn't think it was any of the company's business.

Q. Now, let us move to the meeting of February 6th, Mr. West.

Was the contract presented to those present at that meeting?

A. Yes, it was.

Q. Was a vote with respect to acceptance or rejection held at that meeting?

A. Yes, it was.

(Testimony of Ernest West.)

Q. Was the vote for acceptance or against acceptance of the agreement?

A. It was for acceptance.

Q. Approximately how many people were present at that meeting?

Mr. Wilson: I will object, your Honor, it is irrelevant and immaterial and an internal affair of a labor organization. Aside from that, whether they accepted it or rejected it, the labor organization is the bargaining representative certified by the Board, and it is up to the bargaining representative to bargain without respect to a vote of the membership or anyone else; and this labor organization accepted a contract from this employer, and this employer [84] refused to execute the final agreement which had been accepted by the labor organization.

Trial Examine: But that doesn't say that this question cannot be answered.

Mr. Wilson: I am sure it can be if you overrule my objection, Mr. Trial Examiner.

Trial Examiner: I will overrule your objection.

Will the reporter please read the question to the witness?

(Record read.)

The Witness: 35 or 40. About the same number.

Q. (By Mr. Irwin): At the meeting of January 6th, Mr. West, did you tell the company that you accepted the proposed agreement?

A. I told the company that I would submit it to our membership and be in touch with them. It was your proposal, sir.

(Testimony of Ernest West.)

Q. That is what I said, the proposed agreement.

Didn't you say that it was up to the people to accept or reject?

A. No, I did not.

Q. It was up to the membership to accept or reject this, that you had to submit it to them?

A. No. I did not. I told you that I would take it to the membership.

Q. Now, is it your testimony that you did not say that the [85] membership would have to vote on this?

A. We allow our membership to vote. I did not say that.

Q. At that meeting?

A. I told you that I would take it to our membership.

Q. And that you would be in touch with the company?

A. Correct.

Q. Now, after the meeting of January 21st, I believe you testified you did not contact the company?

A. I did not.

Q. Did you contact the company after the February 6th meeting?

A. I did not. I contacted Fred Fergurson of the conciliation service.

Q. Did you in making a presentation to the membership, did you have anything written down with respect to any notes or anything with respect to this wage re-opener clause?

A. No, sir. I only, my only notation on those was there would be a wage re-opener clause with waiver of the no strike no lockout clause. [86]

* * * * *

(Testimony of Ernest West.)

Mr. Wilson: I offer into evidence Respondent's Exhibits 2, 3 and 4 for identification.

Trial Examiner: As?

Mr. Wilson: You can change the numbers if you wish to General Counsel's Exhibits next in order.

Trial Examiner: Are there any objections?

Mr. Irwin: Well, I think they should properly go into evidence as Respondent's Exhibits. They were in connection with examination by Respondent. [87]

Trial Examiner: Do you want them as your exhibits?

Mr. Irwin: I prefer.

Trial Examiner: Any objection to the Respondent offering these?

Mr. Smith: I have no objection.

Mr. Wilson: No objection.

Trial Examiner: There being no objections, the papers are received into evidence, and I will ask the reporter to kindly mark them as Respondent's Exhibits Numbers 2, 3 and 4 respectively, and these are the same papers which Mr. Wilson had proffered and which he has agreed to allow the Respondent to offer.

(The documents heretofore marked Respondent's Exhibits Numbers 2, 3 and 4 for identification were received in evidence.) [88]

* * * * *

VINCE SCHARFENBERG,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Trial Examiner: Will you kindly give your name.

(Testimony of Vince Scharfenberg.)

The Witness: Vincent Scharfenberg.

Trial Examiner: Will you kindly spell your name.

The Witness: S-c-h-a-r-f-e-n-b-e-r-g.

Trial Examiner: Where do you live, sir?

The Witness: 5849 Buena Vista Terrace, Los Angeles.

Trial Examiner: You may be seated, sir.

Mr. Irwin, you may proceed with the examination of Mr. Scharfenberg who has been duly sworn.

Mr. Irwin: Thank you.

Direct Examination

Q. (By Mr. Irwin): Mr. Scharfenberg, you are employed by Holly-General Company, is that correct?

A. Yes, sir.

Q. In what capacity?

A. I am a special assembler.

Mr. Wilson: What kind of a special assembler?

The Witness: Special assembler.

Q. (By Mr. Irwin): Are you hourly paid?

A. Yes, sir.

Q. Are you a supervisor; are you a foreman, Mr. Scharfenberg? A. No. [89]

Q. Mr. Scharfenberg, I am going to show you Respondent's Exhibit 1 and ask you to examine it and ask you if you have ever seen that before?

A. Yes, I have.

Q. Did you ever present this to the National Labor Relations Board in Los Angeles, California?

Mr. Wilson: I object to the leading of the witness.

Trial Examiner: Overruled.

The Witness: Yes, I have.

(Testimony of Vince Scharfenberg.)

Q. (By Mr. Irwin): Do you recall on what date that was?

A. Approximately February 16th or 17th. I don't know exactly, though. [90]

* * * * *

Q. Did you ask permission to leave the plant?

A. I did.

Q. Of whom did you ask permission?

A. My supervisor.

Q. What is his name? A. Charles Burton.

Trial Examiner: (Spelling) B-u-r-t-o-n?

The Witness: B-u-r-t-o-n, yes, sir.

Trial Examiner: Thank you.

Q. (By Mr. Irwin): What if anything did you say to Mr. Burton about leaving the plant?

A. Well, I asked him if I could go uptown and take care of some business, and he said, I told him the nature of the business, by the way—and he said if I stamped out, clocked out, that is, he could not—in other words, they couldn't pay me for it.

So I clocked in and clocked out and it was on my own time, what I'm trying to say.

Q. (By Mr. Irwin): Where did you go?

A. Well, I got the wrong address.

Trial Examiner: You eventually came to this building? [91]

The Witness: Yes, sir, the 6th floor.

Trial Examiner: In this building?

The Witness: Yes, sir.

Q. (By Mr. Irwin): Now, did you talk to anybody up there?

(Testimony of Vince Scharfenberg.)

A. Yes, sir. I talked to the NLRB lawyer, and we filled out—do you want me to go on and say what happened?

Q. Yes. What happened while you were there?

Trial Examiner: Do you remember his name?

The Witness: No, I don't. I can tell you which room it was, if that will help.

Trial Examiner: I don't want you to.

The Witness: Anyway, I presented this here petition to him.

Q. (By Mr. Irwin): That is Respondent's 1?

A. Yes, and he made me sign out forms and so forth and so on, and then after it was all done, about 45 minutes I guess it took, he showed it to another lawyer, he said. In the place they have about three of them up there.

Trial Examiner: Well, I think they got about 30 of them.

The Witness: Anyway, the lawyer he showed it to, after I got it filled out, all these forms and answering all these questions, because he said it wasn't made out right. It wasn't dated. It was too soon. It had been after the 27th, I think he told me, of February, that is, so it wasn't any [92] good. So—

Trial Examiner: You don't know the second lawyer's name?

The Witness: No.

Q. (By Mr. Irwin): All right. What did you do then?

A. Well, then I came back to work and clocked in, and I took this here and gave it to the Personnel De-

(Testimony of Vince Scharfenberg.)

partment and talked to Mr. Chaney and Jean Amman, and told them what happened.

Mr. Irwin: I have no further questions.

Trial Examiner: Mr. Wilson, do you have any questions?

Mr. Wilson: Yes, sir. [93]

* * * * *

Q. (By Mr. Wilson): He has sort of reddish hair?

A. No. This I am pretty sure. It was black hair.

Q. This petition that you got, this Respondent's 1, where did you get it? [94]

A. This petition here?

Q. Yes.

A. From the Personnel Department.

Q. Do you mean the Personnel Department of Holly-General?

A. That's right. This petition here?

Q. Yes. A. Yes.

Q. Was that before you spoke to your foreman or after you spoke to your foreman?

A. I think it was after I got the petition from the Personnel Department, I spoke to the foreman.

Q. How long had you had that petition, that Re-
partment. Then you went to and spoke to your fore-
man, is that correct?

A. Supervisor, yes, sir.

Q. Or your supervisor, and that is Mr. Burton?

A. Mr. Burton, that is right.

Q. How long had you had that petition, that Re-

(Testimony of Vince Scharfenberg.)

spondent's 1 before you spoke to your supervisor Burton?

A. Oh, within an hour, I would say. An hour, an hour and a half. I don't remember exactly. [95]

* * * * *

Q. Well, when you went to the Personnel Department, to whom did you speak?

A. Jean Amman.

Q. That is that young lady that just left the room?

A. That's correct.

Q. Will you tell us the conversation you had with her?

A. Well, I told her I wanted the petition to take down.

Q. To take down where?

A. To the Labor Board. [101]

Q. What did she say?

A. She didn't say nothing. She just got the petition for me. [102]

* * * * *

Mr. Irwin: Excuse me. I have just handed to General Counsel the results of the search of the time cards which reveal this information. Now, this has been a cursory search.

Mr. Wilson: Subject to correction, and by the way, it jibes with what I guessed.

I proposed a stipulation that it was on February the 8th.

Trial Examiner: I beg your pardon?

Mr. Wilson: That it was on February 8th, 1960, that this witness clocked out of Holly-General at 12:01

(Testimony of Vince Scharfenberg.)

for the purpose of coming to the Board and clocked back in at 2:03.

The Witness: Could I have been that far off?

Mr. Wilson: You so stipulate?

Mr. Irwin: Yes, subject to further verification. I will say that that was handled over the telephone, and in a [111] quick cursory search of the time cards. This was the information that was given.

Trial Examiner: Do you accept that stipulation, Mr. Smith?

Mr. Smith: Yes. That is acceptable.

Mr. Wilson: And I accept it. I don't know whether the trial examiner was finished inquiring. [112]

[Endorsed]: Filed May 9, 1960.

GENERAL COUNSEL'S EXHIBIT 2

[Letterhead]

February 12, 1960

Mr. E. West

Western Region No. 6

U.A.W.

8501 South San Pedro Street

Los Angeles 3, California

Dear Mr. West:

Confirming our representative's statements during the meeting of February 12, 1960, at which meeting we were requested to reduce the contract to its final form and execute it, and so that there will be no misunderstanding, we wish to re-state the Company's position. As we told you, within the last several days, we have received a petition signed by more than sixty percent of our employees in the bargaining unit requesting that an election be held to determine the question of employee representation. We are further informed that one or more employees went to the Board to initiate such an election, and that they were told that they were premature.

In view of the fact that the certification year expires in less than two weeks, and in view of the expressed desires of our employees against your continued representation, which expression was contained in the petition above referred to and the signatures on which we have verified, it appears to us that to reduce our agreement

to final form and execute it would operate to deprive our employees of their rights to an election to determine the question of continued representation.

We therefore have offered and renew our offer, to execute the final agreement, such agreement to take effect upon the happening of any of the following events:

1. A reasonable time has elapsed from the earliest date at which a petition for election could be filed and no such petition is filed, or

2. A petition for election is filed within such time and the petition is dismissed by the Board, or

3. A petition is filed and an election held with results favorable to your organization.

This proposal was made and is renewed in the sincere belief that in view of all of the circumstances that it affords the greatest protection to yourselves, to our employees, and to the Company.

Very truly yours,

/s/ L. R. CHANEY,

Vice President-Manufacturing.

LRC:vg

Admitted in Evidence May 2, 1960.

GENERAL COUNSEL'S EXHIBIT 4

United States of America
National Labor Relations Board
Case Nos. 21-RC-5383, 21-RC-5387

“NON D”

Type of Election
Consent Agreement
Stipulation
Board Direction

HOLLY-GENERAL COMPANY, A DIVISION OF
THE SIEGLER CORPORATION,

(Employer),

and

INTERNATIONAL UNION, UNITED AUTOMO-
BILE, AIRCRAFT & AGRICULTURAL IM-
PLEMENT WORKERS OF AMERICA
(UAW), AFL-CIO,

(Petitioner).

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above mat-
ter by the undersigned Regional Director of the Na-
tional Labor Relations Board in accordance with the
Rules and Regulations of the Board; and it appearing
from the Tally of Ballots that a collective bargaining
representative has been selected; and no objections hav-
ing been filed to the Tally of Ballots furnished to the
parties, or to the conduct of the election, within the
time provided therefor;

Pursuant to authority vested in the undersigned by the National Labor Relations Board,

It Is Hereby Certified that International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW), AFL-CIO has been designated and selected by a majority of the employees of the above-named Employer, in the unit herein involved, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9(a) of the Act as amended, the said organization is the exclusive representative of all the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

Signed at Los Angeles, California, on the 26th day of February, 1959,

[Seal]

On behalf of
National Labor Relations Board,
/s/ RALPH E. KENNEDY,
Regional Director for,
Twenty-First Region,
National Labor Relations Board.

Admitted in Evidence May 2, 1960.

GENERAL COUNSEL'S EXHIBIT 5
AGREEMENT

This Agreement made and entered into as of the day of, 19...., by and between Holly-General Company, 875 So. Arroyo Parkway, Pasadena, hereinafter called the "Company," and the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-AFL-CIO and Amalgamated Local Union No. 509, hereinafter called the "Union."

Article I—Recognition

The Company recognizes the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-AFL-CIO, and its Local 509, as the sole representative for the purpose of collective bargaining for all factory employees, and shall negotiate with the accredited representatives thereof on any dispute which may arise concerning wages, hours and working conditions.

The purpose and intent of the Employer and the Union in entering into this collective bargaining agreement is to set forth their agreement on rates of pay, hours of work and other conditions of employment, in order to promote harmonious and orderly relations between the employer and the employees, and to provide procedure for prompt, equitable adjustment of grievances to the end that there shall be no interruption or impeding of work, work stoppages or strikes or other interferences with efficient production by either party during the life of this agreement.

Article II—Representation

Section 1. The employees shall be represented by a Bargaining Committee of three (3) members selected from such employees for the purpose of settling grievances and conducting negotiations with the Company.

Section 2. The Bargaining Committee reserves the right at any and all times to call in a representative of the International Union and/or the Local Union Business Representative.

Section 3. International Representatives and/or the Local Union Business Representative shall have access to the Plant, for the purpose of investigating alleged violations of this Agreement, which cannot be settled between the Bargaining Committee and the Management, upon making formal request and stating their reason to the Director of Industrial Relations, or his designated representative.

Section 4. Department Stewards shall be selected by the Union from the employees in the department he represents. There shall be not more than one (1) Steward for each department on each shift.

Section 5. It is understood and agreed that all employees who have been designated as the Bargaining Committee or as stewards, also have full time work to perform for the Company. Before any Union representative leaves his work station to attend a grievance meeting or a grievance investigation, he must inform his foreman of the reason for leaving and the location. Prior to entering another department, he will inform the department foreman of his presence and reason for being there and upon completing such business, he will inform his foreman he has returned to his job.

Section 6. A total of ten (10) hours per month will be allocated for the investigation of grievances for all stewards. These hours will be accumulative for the stewards only. A total of 17½ hours per month will be allocated for grievance meetings or grievance investigation for the bargaining committee, these hours will be accumulative for the bargaining committee only.

Management's Rights

Any of the rights, powers, or authority that the Company had prior to the signing of this agreement are retained by the Company except those specifically abridged, delegated, granted or modified by this agreement or any supplementary Agreement that may hereinafter be made.

These rights include the authority to hire, direct, increase the working force, determine the products to be manufactured, establish schedules of production, determine the methods, processes, means and places of manufacture, including the right to subcontract work.

The authority to adjust, transfer and decrease the working force, to remove employees, and maintain discipline shall be vested in the management except as hereinafter limited by the provisions of this agreement.

Article III—Grievance Procedure

A grievance is defined as a dispute over wages, hours conditions of work, or interpretation of this contract, wherein it is alleged that the Company has violated this Agreement.

Step 1. Any employee having a grievance shall discuss same with his supervisor within two working days

of its occurrence or within two days when he should reasonably have known of same. Such employee may, have his steward present at such discussion. If no satisfactory settlement is reached at such discussion, then

Step 2. A written grievance, signed by the employee or employees involved and his steward, and stating the facts upon which it is based; the remedy or correction desired the Company to make, the section or sections of this Agreement, if any, relied upon or claimed to have been violated, shall be presented to the supervisor within two working days of the discussion held under Step 1. The supervisor shall give a written answer to such grievance within seventy-two hours of its written presentation to him.

Step 3. If the Union is not satisfied with the written answer, the grievance shall be transmitted to the Personnel Manager within two working days from the date of the supervisor's written answer. The Personnel Manager shall contact the chairman of the committee and arrange a conference; such conference shall be held within seven working days of the transmittal of the written grievance to the Personnel Manager. The Personnel Manager shall give his decision or answer within seven working days of the conference.

Step 4. If the Union is not satisfied with the answer, the Union may submit the grievance to arbitration within fifteen working days. The Company and the Union shall first attempt to agree on the selection of an impartial arbitrator. If no such agreement is reached, then the party requesting arbitration shall re-

quest the Federal Mediation and Conciliation Service to submit a panel of seven arbitrators. If no mutually acceptable arbitrator can be agreed upon from the list, such selection shall be made by the process of elimination and the party requesting arbitration shall eliminate the first name. If the entire panel is mutually unacceptable, a new panel of seven names will be requested.

A. Only those grievances consisting of disputes arising from a change or violation of this Agreement shall be submitted to arbitration. The arbitrator shall not have the right to add to, or subtract from, or modify any of the terms of this Agreement; or to establish standards of production or wage rates and shall have the authority to render decisions only within the scope and terms of this Agreement.

B. If time limitations imposed in this Article are not complied with by the employee or the Union, satisfactory settlement of the grievance will be conclusively presumed. If the Company does not comply, the grievance is deemed granted.

Article IV—Wages and Hours

Section 1. The normal work week shall consist of five (5) consecutive eight (8) hour work days starting on Monday.

Section 2. The Company shall establish and maintain regular shifts with regular starting and quitting times. The exception to this shall be that when production or shipping schedules, or work load or flow requires, the Company reserves the right to assign a

regular shift or shifts of a different time to different departments, or to individuals within a department.

Section 3. Two ten minute rest periods will be allowed, one during each half of each shift at times established by the Company.

Section 4. A five minute area and/or machine clean-up period will be allowed at the end of each shift, and after the individual work area is clean; the remaining time may be used as personal wash up time.

Section 5. Time and one-half will be paid for all authorized hours if worked in excess of eight (8) hours in any one day.

Section 6. Employees will suffer no loss of over-time pay because of any changes in work schedule.

Section 7. Saturday work shall be paid for at time and one-half.

Section 8. Sunday work shall be paid for at double time.

Section 9. All hours worked in excess of twelve (12) hours in any one day shall be paid for at double time.

Section 10. Where work is performed on a regular paid holiday, pay for such work shall be paid for at one and one-half times the regular hourly rate. In addition, such employees, if otherwise qualified, shall receive his holiday pay.

Section 11. Premium payments shall not be duplicated for the same hours worked under any of the terms of this Agreement.

Section 12. All employees working on the second shift (Swing) shall be paid .08 cents per hour as a premium for working that shift. All employees working on the third shift (Graveyard) will be paid .12 cents per hour as a premium for working that shift, plus eight hours pay for 6½ hours work.

Section 13. Eight hours straight time shall be paid at the employees' regular guaranteed straight time hourly base rate exclusive of night shift and overtime premium if they do not work on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. (If a holiday falls on Saturday, it will be observed on the preceeding Friday. If a holiday falls on Sunday, it will be observed on the following Monday. An employee must work the first regular day before and after the holiday to qualify for holiday pay.

Section 14. When one of the above holidays falls within an employee's approved vacation period and he is absent from work during his regular scheduled work week because of such vacation, he shall be paid for such holiday, or receive an extra day's vacation with pay at the discretion of the company.

Section 15. With the following exception, all employees on the active payroll will receive holiday pay for holidays not worked.

Exception: Employees on layoff, leave of absence, or sick leave will receive holiday pay for holidays not worked only if the holiday falls or is observed within one calendar week of the last day they actually worked.

Section 17. Employees coming to work at the regular starting time of their shift, and not having been previously notified not to report shall be given four hours work at their regular rate of pay, or shall be paid four hours wages at their regular guaranteed hourly base rate, unless such employee cannot work for reasons beyond the control of the company.

Article V—Vacations

1 year—1 week

2 years—2 weeks

10 years—3 weeks

Employees who have not completed one year of service are not entitled to paid vacation.

Article VI—Seniority

Section 1. Employees shall be considered probationary employees until they have continued in the employ of the Company for sixty days.

Section 2. There shall be no seniority among probationary employees. After the probationary period, their seniority shall start from last hiring-in date. Probationary employees shall not have access to the Grievance Procedure.

Section 3. There shall be no responsibility for the re-employment of probationary employees if they are laid off, terminated, or discharged, during the probationary period.

Section 4. In the event any employees have the same hire-in date, then their seniority shall be determined alphabetically according to the employee's surname.

Section 5. Seniority shall be plant-wide. For the purpose of above seniority, seniority lists shall be established, and in the event of any change, such changes shall first be agreed upon between the Company and the Union. In the event a new product is introduced which necessitates the establishing of a new department, the Company shall notify the Union. Such jobs shall then be established in conformance with other provisions of this Agreement.

Section 6. The Bargaining Committee shall head the seniority list.

Section 7. The Bargaining Committee shall be retained at work when any department is operating, provided there is work which they are qualified and capable of doing. Such Committeeman shall receive the same rate of pay as the man he displaces, but in no case shall the committeeman receive more than his regular guaranteed base rate plus shift premium if applicable.

Section 8. At the end of their term of office, the Bargaining Committee shall revert to their original seniority.

Section 9. A complete seniority list of each department shall be made and posted in each department, which will be corrected once each month.

Section 10. A master and departmental seniority list shall also be provided to the Bargaining Committee, and a copy furnished to the Local Union office. A corrected copy will be furnished once each month.

Section 11. Employees transferred to another department shall not lose their plant-wide seniority.

Section 12. If any employee is temporarily transferred to a lower paid classification, his guaranteed hourly base rate will not be affected.

Section 13. If a seniority employee is temporarily transferred to a higher paid classification, the employee shall receive the higher guaranteed hourly base rate.

Section 14. When it becomes necessary to transfer employees temporarily from one department to another in order to meet an emergency, or to fill a position left open by the absence of another employee, or to take care of critical additional production requirements, then the selection shall be made as determined by the Management, provided junior employees are used where possible.

Section 15. Temporary transfers shall not exceed five days unless mutually agreed to between Company and Union, with the exception of vacation replacements.

Section 16. Employees while temporarily transferred shall hold seniority in the department from which they were transferred.

Section 17. Lay-off and Recall Procedure

Lay-off:

1. For the purposes of a reduction in the working force, seniority shall be applied on a job classification basis. The employee having the least seniority in that classification being reduced shall be the first laid off, regardless of his plant-wide seniority.

2. Any employee laid off under Section 1 shall have the right to displace any other employee with less plant-wide seniority, except that such employee may only bump into a job within the same or lower labor grade.

3. Any employee who elects to bump in accordance with this section must be capable of performing the job into which he bumps with a reasonable period of instruction. Reasonable period of instruction shall be determined by the Company, but in no case shall it exceed five days. "Instruction" as used in this section shall mean instruction as to what the job functions are, and not how to perform them.

4. Any employee who elects to bump in accordance with this section shall take the rate of the person he displaces.

5. In the event the employee fails to qualify on the job onto which he has elected to bump, as provided in Section 3-above, he shall be entitled to displace the least senior employee in the plant only. In the event such employee does not elect to displace said least senior employee he shall take the lay-off.

6. When possible, the Company shall give one week or 40 hours notice of any lay-off.

Recall from Lay-off:

1. Employees who have exercised their bumping rights due to a reduction in force must first be returned to their regular job held prior to the lay-off.

2. The most senior man on lay-off will then be recalled for work.

3. If a man is recalled to a job other than that from which he was laid off, he will have thirty days to qualify for that job.

4. If an employee refuses, or declines to take work available, for physical reasons, in a classification other

than that in which he last worked, he shall have the privilege of accepting the next open job should he choose.

5. Employees shall have recall rights for one year from date of lay-off, provided they notify the Company every thirty days, in writing, of his desire to return to work.

Section 18. Any employee who is incapacitated at his regular work by proven injury and/or compensable disease, or who is incapacitated from other proven injury and/or sickness, or disease, while employed by the Company, shall be transferred when possible to other work in the plant which he can properly perform, with due consideration of his seniority.

Section 19. There may be times when it become necessary for efficient production to place senior employees with special skill and experience on other than their regular shift. Such transfers shall be only until the work in the department is properly organized and other employees are experienced enough to efficiently carry on the work. The Company will notify the Bargaining Committee when such transfers are made.

Section 20. When a new job, or vacancy, occurs in any department it shall be posted in that department's designated space on the plant bulletin board for twenty-four hours and any seniority employee of that department desiring the job shall sign the posting. The seniority employee with the most departmental seniority who is physically and mentally capable, signing the posting, shall receive the job. Such seniority employee will be given sufficient trial to determine his ability to do the job which will not exceed 30 days.

Section 21. A justified discharge, or quit, shall result in loss of seniority and all employment rights.

Section 22. In the event it is necessary to recall an employee, notice shall be given to the eligible employee, in writing, at his last address shown in the Company records. Such employee must, within two days of receiving said notice, notify the Company of his intention to return to work, and must return to work not later than the fifth working day following receipt of notice. Any employee who fails to abide by these provisions may be subject to termination.

Section 23. Employees failing to report for work at the end of a leave of absence or vacation, or failing to notify the Company of their inability to report for work may be discharged.

Section 24. Employees must keep the Company and the Union informed at all times of their correct address. Failure to comply is reasonable cause for loss of seniority.

Section 25. Employees shall cooperate in furnishing the Company with their correct telephone number.

Section 26. No employee shall lose his seniority through sickness or accident, provided the employee notifies the company within three (3) working days.

Section 27. In case of accident or illness which prevents an employee from notifying the company, proper exception will be made after the employee furnishes proof he was unable to notify the company.

Section 28. Employees absent over three (3) consecutive working days for any cause except as listed

above, and who have failed to notify the company of absence during said three (3) working days, may be subject to termination.

Section 29. The Chairman of the Bargaining Committee and/or a Bargaining Committeeman shall be notified when an employee is disciplined by a layoff, discharge, or termination.

Article VII—Bulletin Boards

The company shall furnish two bulletin boards of a suitable size for the sole use of the Union, and the Union does hereby agree to post thereon only the following:

- (a) Notices of Union recreational and social affairs;
- (b) Notices of Union elections;
- (c) Notices of Union appointments and results of Union elections;
- (d) Notices of regular, or special Union meetings.

One bulletin board will be located by the time clock and the other will be located in the Canteen.

Article VIII—Leaves of Absence

Section 1. Employees shall be granted a reasonable leave of absence, not to exceed sixty (60) days, without loss of seniority for just cause, application to be made at least forty-eight (48) hours prior to the date leave is to be effective, except in case of emergency. The Union shall be furnished a notice of such leave.

Section 2. Seniority status to be maintained as of the original hiring-in date. Seniority shall be accumulative during such leave of absence.

Section 3. Leaves of absence may be extended for just causes at the employee's request, such extension to be mutually agreed upon by the Company and the Union. Employees accepting other employment while on leave may be discharged.

Section 4. Members of the Union elected to Local Union positions, or selected by the Union to do work which takes them from their employment with the Company, shall, upon written request from the Regional Director and/or the President of the Local Union, be given a leave of absence for a period not to exceed one year, which may be extended upon request, and with company approval. During such time, said employee's seniority shall continue to accumulate. At the end of such leave of absence, said employee shall be reinstated in his former classification at the rate prevailing for such classification, or one of comparable status if former job no longer exists, provided, however, that he is still physically and mentally fit and capable of performing said job. In the event he is not physically or mentally fit for such job, he shall be placed in a job in line with his seniority and capability.

Section 5. In the event that any employee of the company, who has seniority status, enters the military service of the United States, whether voluntarily or involuntarily, in conformity with the provisions of the Selective Service Act passed by Congress, such employee shall be deemed to be on leave of absence for the purpose of determining any rights of reinstatement to a like position in the service of the company. The company agrees to comply with all re-employment provisions of the Universal Military Training and Service

Act of 1951. It is agreed that this clause has to do with the requirements of that act, but has no application where the employee voluntarily enlists in regular service of the Armed Forces.

Article IX—Sick Leave

Sick leave will be earned at the rate of one day for each four month's service (3 days per year maximum) with the Company. Sick leave will be paid only for bonafide illness, proof to be furnished by the employee when requested, until such time as an employee has accumulated a total of six days, after which he may take cash for any additional earned sick leave in lieu of illness.

In the event of termination for any cause all earned sick leave will be paid.

Article X—Holidays

For the purposes of this Agreement, the following days shall be considered holidays:

New Year's Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

Eight hours (8) straight time shall be paid at the employee's regular straight time hourly base rate exclusive of night shift and overtime premium whenever an employee doesn't work on any of the above holidays providing he meets the eligibility requirements for holiday pay.

Eligibility for Holiday Pay

Anyone on the active payroll will be eligible for holiday pay providing the holiday falls within one calendar week of the last day they are actually at work. This will include anyone on lay-off, leave of absence or sick leave.

Article XI—Challenge of Time Standards

A. Any employee shall have the right to challenge a time standard within thirty days of establishment through his appropriate representative to the Company. Within twenty-four (24) hours thereafter, the employee and/or the appropriate union representative shall be given an opportunity to discuss the standard with a representative of the Industrial Engineering Department. When requested, a re-time study shall be made by the Company and witnessed by the appropriate Union representative.

B. Any disputed standard shall be subject to the grievance and arbitration procedures. In the event that such a dispute is submitted to arbitration, the question to be determined by the arbitrator shall be limited to whether the new or revised work standard established by the Company for the operation in question, was properly established under the Company's Industrial Engineering principles, techniques and procedures, or if not, in what respect errors were made thereunder in operation elements, basic timing or calculations. The arbi-

trator shall be concerned only with variations in excess of 5% of the standard time.

Article XII—Miscellaneous

Foremen and supervisors shall act in a supervisory capacity only, and they shall not perform any work or operation performed by regular workmen or operators at any time whatsoever, except on an experimental work, in cases of emergency, or for the purpose of instructing an employee or employees.

Article XIII—Wages

For the purpose of this Agreement, the following pay schedule (see appendix A) will be in effect.

Article XIV—Assignability

This Agreement shall be binding upon the successors and assignees of the parties hereto, and no provisions, terms or obligations herein contained shall be affected, modified, altered or changed in any respect by any change of any kind in the ownership or management of either party, either to or by the change herein specified above in the locations, place or operation or place of business of either party hereto.

Article XV—Strikes and Lockouts

Section 1: During the life of this agreement, no work stoppages, strikes or slow-downs shall be caused or sanctioned by the Union, and no lockouts shall be made by the company.

Section 2. Any employee, or employees, individually or collectively, who shall cause, or take part in, any strikes, work stoppages, interruptions, or any impeding of work, during the life of this agreement, may be disciplined or discharged by the company subject to the grievance procedure. Any such grievance shall be instituted in Step 3 of the Grievance Procedure.

Section 3: In the event that any employee or employees refuse to handle or perform any work, or handle materials or machinery or equipment because of sources of supply or the Union affiliation or non-affiliation of the labor engaged in such work, the Union agrees that they will, through their good offices, promptly notify such employee or employees that this is a violation of this agreement. Any employee or employees who engage in such action may be disciplined or discharged by the company. Such action by the company shall not be subject to the grievance procedure.

Article XVI—Duration

This Agreement shall become in full force and effect immediately upon signing by both parties, and shall remain in full force and effect until the day of, 196., and shall thereafter automatically renew itself in its entirety from year to year for a period of one year. On each renewal period, if either party should desire to terminate this Agreement or to add or to amend any terms thereof, at any ex-

piration date as provided above, it shall notify the other party in writing not less than sixty (60) days prior to such date, specifying the date for such termination, or the nature of the amendments sought.

Signed this day of 19.....

Holly-General Company,
Division of Siegler Corporation,

By.....

International Union, United Automobile,
Aircraft and Agricultural Implement Workers
of America, UAW-AFL-CIO and Amalgamated
Local Union No. 509.

By.....

Admitted in Evidence May 2, 1960.



RESPONDENT'S EXHIBIT 1

(Pages 95 to 97)

Admitted in Evidence May 2, 1960.



TO WHOM IT MAY CONCERN

WE THE UNDERSIGNED REQUEST A VOTE AGAINST UNION REPRESENTATION IN THE SHOP
OF HOLLY GENERAL PLANT 875 So. ARROYA PARKWAY, PASADENA, CALIFORNIA.

Mugh A Mc Caffrey
Luis S. Ruyter
Henry Kerman
Edward Majek
David [unclear]
Kelia Blodis
Robert Evers
Jack N. Preston
Donell F. Marshall
Aurayne E. Jones.
Jack [unclear]
Clarence Kline
Joseph Vitanovitz
O. Hollstein
William R. [unclear]
Wallace Krang
Anthony Pasquella
Joseph Sanchez
Leo Realini
Fred Ward
W. A. [unclear]
A. A. Parpin
Bob Paulowicki
Lon D. Blackletter
Albat Kirk
George Riley
William [unclear]
Ray Chavez
Pablo Polga
John [unclear]
Hippita Yofano
Ernest Moreno
James Light
Dieter H. Ross
Viktor Williams
Dean [unclear]
E. Buffington
Antonio Rodella
[unclear]

Ed Fitzsimmons Jr
 William H Gray
 Tommy Parker
 Ed Parker
 Wilbur Royst
 R. Scherer
 Wilbur Henderson
 Vincent Schaffenberg
 George Johnson
 R. Doug. Lawrence
 Bill Sunthart
 John Estaba
 Jack Curran
 Thomas Schmidt
 Miguel Garcia
 Gus Sands
 Joe Paura
 John Jonesen
 Payne & Kelly
 Wallace Savanna
 Harry Genser
 Roger L. Bradley
 Jerry & Smith (over)

I wain 1-Caskey
 Joe B. C. C. C.
 Clifton March
 Edward Strickli
 Fred Objochi
 Gene Thompson
 Paul Sander
 Willard Matthews
 Pitt Blott
 Hugh R. M. Hutchins
 Antonio D. Cavallero
 Charles X. Leser
 Oliver Line
 Dale Steve
 Bobby Horkison
 Wayne Stone
 Paul P. Bruce
Al Harrison
 Robert L. Iko
 Clifford Madrid
 William Kupper
 Janet Cloddis
 Charles Moly
 George H. Jeffrey

Erwin R. M. Dault
Dick Dean (Gen. R.)
Kearns.

~~W. Escobedo~~
Karon Olson
Wm. of Wallace
Wm. of Rogers.
Wm. Stoff. *

Pete Ramos
Henry Callahan
John Anderson
D. R. Lunt

~~R. F. ...~~ *
John Siefel
Charles McDaniel, Jr.
~~...~~

Paul ...
Harvey ...
Daneel Bink
John ...
Graham ...
Art Gallo

RESPONDENT'S EXHIBIT 2

Meeting Reminder

Tonight—Right After Work (Both Shifts)

Veterans Hall (Post 1053)

810 E. Walnut, Pasadena

Holly Workers Hear the Reading of a Proposed Contract and Get All the Facts. You Be the Judge by Casting A Secret Ballot For or Against the Proposed U. A. W.—Holly Contract. Everyone Invited.

Refreshments—Coffee & Donuts Will Be Served.

U. A. W. Organizational Committee

oieu30af1-cio

1-21-60

Admitted in Evidence May 2, 1960.

RESPONDENT'S EXHIBIT 3

Special Meeting

Thursday, January 21st

For the last few weeks UAW Representatives along with your elected Committee have been meeting with Holly General Management in an effort to reach agreement on your contract. Holly Management made what it calls it's last offer regarding your contract and it is most important that you attend a special meeting to consider this offer.

The proposed contract will be presented to you for your approval or disapproval. Hear the final positions taken by your employer and the UAW Committee at the January 6 meeting.

Get all of the facts by being present and casting your secret ballot vote for or against the proposed contract. Ernest West, Region 6, UAW, Assistant Dir., who took part in final negotiations will be present to give his views concerning the proposed contract agreement.

A democratic Union must be guided by the desires of its membership. Do not disenfranchise yourself by being absent from this important meeting!

Special Holly Meeting
To Vote On A Contract

Date: Thursday, January 21

Time: (Day Shift) Right After Work
(Swing Shift) “ “ “

Place: Veterans Hall (Post 1053)
810 E. Walnut, Pasadena

oeiu30afl-cio

Admitted in Evidence May 2, 1960.

RESPONDENT'S EXHIBIT 4

Meeting Tomorrow

A Meeting Shall Be Held Tomorrow For the Purpose Of Voting to Accept Or Reject the Union Contract With the Holly General Company.

Those Eligible to Vote On the Proposed U.A.W. Contract Are Employees Who Signed Membership Cards. No Other Holly General Employees Than

Those Who Signed the U.A.W. Membership Card Will Be Eligible to Cast A Vote On the Accepting Or Rejecting of This Contract.

Date: — — — — Saturday, Feb. 6, 1960

Time: — — — — 10:30 A.M.

Place: - - - - Veteran's Hall,

Post 1053

810 East Walnut

Pasadena, California

oeiu30aflcio

February 4, 1960

Admitted in Evidence May 2, 1960.

[Endorsed]: No. 17304. United States Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Holly-General Company, Division of Siegler Corporation, Respondent. Transcript of Record. Petition to Enforce an Order of the National Labor Relations Board.

Filed: April 25, 1961.

/s/ FRANK H. SCHMID,

Clerk of the United States Court of Appeals for the Ninth Circuit.

United States Court of Appeals
For the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

HOLLY-GENERAL COMPANY, DIVISION OF
SIEGLER CORPORATION,
Respondent.

PETITION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR RE-
LATIONS BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Secs. 151 et seq., as amended by 73 Stat. 519), hereinafter called the Act, respectfully petitions this Court for the enforcement of its Order against Respondent, Holly-General Company, Division of Siegler Corporation, its officers, agents, successors and assigns. The proceeding is known upon the records of the Board as Case No. 21-CA-3900.

In support of this petition the Board respectfully shows:

(1) Respondent is a Delaware corporation engaged in business in the State of California, within this judicial circuit where the unfair labor practices occurred.

This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act, as amended.

(2) Upon due proceedings had before the Board in said matter, the Board on January 3, 1961, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers, agents, successors and assigns. Thereafter, on February 16, 1961, the Board issued an Order Correcting Decision And Order. On January 3 and February 16, 1961, respectively, the Board's Decision And Order and Order Correcting Decision And Order were served upon Respondent by sending copies thereof postpaid, bearing Government frank, by registered mail, to counsel for Respondent.

(3) Pursuant to Section 10 (e) of the National Labor Relations Act, as amended, the Board is certifying and filing with this Court a transcript of the entire record of the proceeding before the Board upon which the said Orders were entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Orders of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon Respondent and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon

the pleadings, testimony and evidence, and the proceeding set forth in the transcript and upon the Order made thereupon a decree enforcing in whole said order of the Board, and requiring Respondent, its officers, agents, successors, and assigns, to comply therewith.

/s/ MARCEL MALLET-PREVOST,
Assistant General Counsel,
National Labor Relations Board.

Dated at Washington, D. C. this 15th day of March, 1961.

[Endorsed]: Filed March 16, 1961. Frank H. Schmid, Clerk.

[Title of Court of Appeals and Cause.]

ANSWER TO PETITION FOR ENFORCEMENT
OF AN ORDER OF THE NATIONAL LABOR
RELATIONS BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

Comes now Holly-General Company, Division of Siegler Corporation, Respondent herein, and Answers the Petition as follows:

1. Respondent admits the allegations contained in paragraphs (1), (2) and (3) of said Petition.
2. Respondent alleges that the Decisions and Orders of the National Labor Relations Board dated January

3, 1961, and February 16, 1961 contain findings of fact and conclusions of law which are not supported by the evidence.

3. That said Decisions and Orders of said Board, in addition to being unsupported by evidence and contrary to law, are not reasonably designed to effectuate the purposes of the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Secs. 151 et seq., as amended by 73 Stat. 519).

Wherefore, Respondent prays this Honorable Court that it cause notice of filing of this Answer to be served upon Petitioner, that it take jurisdiction of this cause, and after due hearing make and enter its Order and decree dismissing in its entirety said Petition, and set aside and annul said Orders of said Board.

/s/ PETER W. IRWIN

Sweeney, Irwin & Foye, Attorneys for Holly-General Company, Division of Siegler Corporation, Respondent.

Dated at Los Angeles, California, this 3rd day of April, 1961.

[Endorsed]: Filed April 5, 1961. Frank H. Schmid, Clerk.

[Title of Court of Appeals and Cause.]

STATEMENT OF POINTS RELIED UPON BY
THE BOARD AND DESIGNATION OF
PARTS OF RECORD NECESSARY FOR A
CONSIDERATION THEREOF

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

Comes now the National Labor Relations Board, petitioner herein, and pursuant to Rule 17 (6) of the Rules of this Court, files this Statement of the point upon which it intends to rely in the above-entitled proceeding, and this designation of the parts of the Record necessary for the consideration thereof:

I

Statement of Point

The Board properly determined that Respondent violated Section 8(a)(5) and (1) of the Act by refusing to honor the Union's certification before it had been in effect for a year.

* * * * *

/s/ MARCEL MALLET-PREVOST
Assistant General Counsel
National Labor Relations Board

[Endorsed]: Filed April 25, 1961. Frank H. Schmid,
Clerk.

[Title of Court of Appeals and Cause.]

STATEMENT OF POINTS RELIED UPON BY
RESPONDENT AND DESIGNATION OF
PARTS OF THE RECORD NECESSARY FOR
CONSIDERATION THEREOF

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

Comes now Holly-General Company, Division of
Siegler Corporation, Respondent herein, pursuant to
Rule 17 (6) of the Rules of this Court, and files its
Statement of the point upon which it intends to rely
in this cause, and designates the portions of the Record
necessary for the consideration thereof:

I

Statement of Point

The determination of the Board that Respondent vio-
lated Sections 8(a)(5) and (1) of the Act by refusing
to execute an agreement is contrary to law and not
supported by the evidence.

* * * * *

Respectfully submitted,

Sweeney, Irwin & Foye
/s/ By PETER W. IRWIN
Attorneys for Respondent

Date: May 1, 1961.

Affidavit of Service by Mail Attached.

[Endorsed]: Filed May 2, 1961. Frank H. Schmid,
Clerk.

